



February 10, 2006

ENGROSSED HOUSE BILL No. 1207

DIGEST OF HB 1207 (Updated February 7, 2006 1:43 pm - DI 106)

Citations Affected: IC 35-43.

Synopsis: Home improvement fraud. Expands the circumstances in which a home improvement supplier commits home improvement fraud. Makes home improvement fraud a Class D felony or Class C felony in certain cases if: (1) the consumer is at least 60 years of age and the contracted amount exceeds a certain limit; or (2) the home improvement supplier violates two or more provisions of the law.

Effective: July 1, 2006.

Pond, Bell, Thomas

(SENATE SPONSORS — WYSS, CRAYCRAFT, STEELE)

January 9, 2006, read first time and referred to Committee on Courts and Criminal Code.
January 19, 2006, reported — Do Pass.
January 25, 2006, read second time, amended, ordered engrossed.
January 26, 2006, engrossed. Read third time, passed. Yeas 97, nays 0.

SENATE ACTION

February 1, 2006, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.
February 9, 2006, reported favorably — Do Pass.

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EH 1207—LS 6138/DI 107+



February 10, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1207

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-43-6-12 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. (a) A home
3 improvement supplier who enters into a home improvement contract
4 and knowingly:

5 (1) misrepresents a material fact relating to:

6 (A) the terms of the home improvement contract; or

7 (B) ~~the~~ a preexisting or existing condition of any part of the
8 property involved, **including a misrepresentation**
9 **concerning the threat of:**

10 (i) fire; or

11 (ii) structural damage;

12 **if the property is not repaired;**

13 (2) creates or confirms a consumer's impression that is false and
14 that the home improvement supplier does not believe to be true;

15 (3) promises performance that the home improvement supplier
16 does not intend to perform or knows will not be performed;

17 (4) uses or employs any deception, false pretense, or false promise

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to cause a consumer to enter into a home improvement contract;
 (5) enters into an unconscionable home improvement contract
 with a home improvement contract price of four thousand dollars
 (\$4,000) or more; or

(6) fails to comply with the provisions of IC 23-15-1 relating to
 the use of an assumed name in the conduct or transaction of
 business in Indiana and misrepresents or conceals either the home
 improvement supplier's:

(A) real name;

(B) business name; or

(C) physical or mailing business address; or

(D) telephone number;

(7) upon request by the consumer, fails to provide the
 consumer with any copy of a written warranty or guarantee
 that states:

(A) the length of the warranty or guarantee;

(B) the home improvement that is covered by the warranty
 or guarantee; or

(C) how the consumer could make a claim for a repair
 under the warranty or guarantee;

(8) uses a product in a home improvement that has been
 diluted, modified, or altered in a manner that would void the
 manufacturer's warranty of the product without disclosing to
 the consumer the reasons for the dilution, modification, or
 alteration and that the manufacturer's warranty may be
 compromised; or

(9) falsely claims to a consumer that the home improvement
 supplier:

(A) was referred to the consumer by a contractor who
 previously worked for the consumer;

(B) is licensed, certified, or insured; or

(C) has obtained all necessary permits or licenses before
 starting a home improvement;

commits home improvement fraud, a Class B misdemeanor, except as
 provided in ~~section 13(a)~~ **section 13** of this chapter.

(b) A home improvement supplier who, with the intent to enter into
 a home improvement contract, knowingly:

(1) damages the property of a consumer;

(2) does work on the property of a consumer without the
 consumer's prior authorization;

(3) misrepresents that the supplier or another person is an
 employee or agent of the federal government, the state, a political

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subdivision of the state, or any other governmental agency or entity; or

(4) misrepresents that the supplier or another person is an employee or agent of any public or private utility; commits a Class A misdemeanor, except as provided in section 13(b) of this chapter.

SECTION 2. IC 35-43-6-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 13. (a) The offense in section 12(a) of this chapter is a Class A misdemeanor:

(1) when the home improvement contract price is one thousand dollars (\$1,000) or more;

(2) for the second or subsequent offense;

(3) if two (2) or more home improvement contracts exceed an aggregate amount of one thousand dollars (\$1,000) and are entered into with the same consumer by one (1) or more suppliers as part of or in furtherance of a common fraudulent scheme, design, or intention;

(4) if, in a violation of section 12(a)(5) of this chapter, the home improvement contract price is ten thousand dollars (\$10,000) or less; **or**

(5) if, in a violation of section 12(a)(6) of this chapter, the home improvement contract price is more than one thousand dollars (\$1,000). **or**

~~(6) if, in a violation of section 12(a)(1) through 12(a)(4) of this chapter, the consumer is at least sixty (60) years of age and the home improvement contract price is ten thousand dollars (\$10,000) or less.~~

(b) The offense in section 12 of this chapter is a Class D felony:

(1) if, in a violation of section 12(a)(5) of this chapter, the home improvement contract price is more than ten thousand dollars (\$10,000);

~~(2) if, in a second or subsequent violation of section 12(a)(1) through section 12(a)(4) of this chapter, the consumer is at least sixty (60) years of age and the home improvement contract price is one thousand dollars (\$1,000) or less;~~

~~(3) (2) if, in a violation of:~~

(A) section 12(a)(1) through 12(a)(5); or

(B) section 12(a)(7) through 12(a)(10);

of this chapter, the consumer is at least sixty (60) years of age and the home improvement contract price is ten thousand dollars (\$10,000) or less; **and**

~~(4) (3) if, in a violation of section 12(b) of this chapter, the~~

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consumer is at least sixty (60) years of age; **or**
(4) if the home improvement supplier violates more than one
(1) subdivision of section 12(a) of this chapter.

(c) The offense in section 12(a) of this chapter is a Class C felony:

(1) if, in a violation of:

(A) section 12(a)(1) through ~~section 12(a)(4)~~ 12(a)(5); or

(B) section 12(a)(7) through 12(a)(10);

of this chapter, the consumer is at least sixty (60) years of age and
the home improvement contract price is more than ten thousand
dollars (\$10,000); **or**

(2) if, in a violation of:

(A) section 12(a)(1) through ~~section 12(a)(4)~~; or

(B) section 12(a)(7) through 12(a)(10);

of this chapter, the consumer is at least sixty (60) years of age,
and two (2) or more home improvement contracts exceed an
aggregate amount of one thousand dollars (\$1,000) and are
entered into with the same consumer by one (1) or more suppliers
as part of or in furtherance of a common fraudulent scheme,
design, or intention. ~~and~~

~~(3) if, in a violation of section 12(a)(5) of this chapter, the~~
~~consumer is at least sixty (60) years of age and the home~~
~~improvement contract price is more than ten thousand dollars~~
~~(\$10,000).~~

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1207, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

ULMER, Chair

Committee Vote: yeas 10, nays 0.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1207 be amended to read as follows:

Page 2, delete lines 13 through 19.

Page 2, line 20, delete "(8)" and insert "(7) upon request by the consumer,".

Page 2, line 20, delete "a consumer with a written" and insert "the consumer with any".

Page 2, line 20, before "warranty" insert "written".

Page 2, line 27, delete "(9)" and insert "(8)".

Page 2, line 33, delete "(10)" and insert "(9)".

(Reference is to HB 1207 as reprinted January 20, 2006.)

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 SENATE MOTION

Madam President: I move that Senator Steele be added as cosponsor of Engrossed House Bill 1207.

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred House Bill No. 1207, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1207 as printed January 26, 2006.)

LONG, Chairperson

Committee Vote: Yeas 8, Nays 0.

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